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REMARKS

In the Office Action dated November 5, 2007, the Examiner states that this application contains the following groups of inventions that are allegedly independent and distinct from each other according to 35 U.S.C. § 121:

Group I. Claims 6, 13 and 42-63, drawn to a pharmaceutical composition comprising phanquinone and a compound or a mixture of compounds, selected from the group comprising antioxidants, acetylcholine enhancers, trace metals, prosthetic groups and clioquinol provided, when clioquinol is selected, that at least one further compound is selected from the said group, classified in class 424, subclasses 451, 449, 464, and 600 for example.

Group II. Claim 64, is drawn to a kit comprising in one or more containers an amount of phanquinone and clioquinol effective to treat or prevent Alzheimer's disease, and an amount of vitamin B_{12} effective to inhibit a detrimental side effect of clioquinol administration, classified in class D42, subclasses 100-104 and 108 for example.

In addition, the Examiner alleges that the application contains claims directed to the following patentably distinct species:

1. Antioxidants
2. Acetylcholine enhancers
3. Trace metals
4. Prosthetic groups.

Therefore, the Examiner further requires an election of species because it is alleged that each of the species named above is made up of compounds with different structures that can be classified in various classes and subclasses.

In order to be fully responsive to the Examiner's requirements for restriction and election of species, Applicants provisionally elect, with traverse, to prosecute the subject matter of Group I comprising claims 6, 13 and 42-63, drawn to a pharmaceutical composition comprising phanquinone and a compound or a mixture of compounds, selected from the group comprising antioxidants, acetylcholine enhancers, trace metals, prosthetic groups and clioquinol,

provided when clioquinol is selected, that at least one further compound is selected from the said group.

Further, Applicants elect species "4) Prosthetic groups." The claims reading on the elected species are claims 6, 13, 42-44 and 48-63.

However, pursuant to 37 C.F.R. §§1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks.

35 U.S.C. §121, which is relied on in the Office Action states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one application. Further, in 37 CFR §1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application.

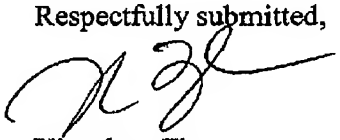
The term "independent" (i.e., unrelated) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions. See also MPEP § 802.01. It is respectfully submitted that the kit of Group II encompasses numerous embodiments of the compositions of Group I. Thus, this disclosed relationship is sufficient to rebut the Examiner's finding that Groups I and II are sufficiently independent to warrant restriction.

Further, related inventions are "distinct" if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is patentable over the other (though they may each be unpatentable over the prior art). MPEP § 802.01. In this application, both of Groups I and II encompass embodiments of pharmaceutical compositions, comprising

phanquinone and clioquinol. Therefore, Groups I and II are not distinct as they are clearly drawn to be used in a similar manner and to have similar effects in subjects experiencing the symptoms of Alzheimer's disease.

Therefore, applying the practice guidelines of MPEP § 802.01 to the instant restriction requirement leads to the conclusion that Groups I and II possess the requisite one similarity to rebut a finding that they represent independent and distinct groups of inventions. Accordingly, it is respectfully requested that the restriction requirement be withdrawn.

Respectfully submitted,



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